

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**NEON ENTERPRISE SOFTWARE,
LLC,
Plaintiff-Counterclaim Defendant,**

v.

**INTERNATIONAL BUSINESS
MACHINES CORPORATION,
Defendant-Counterclaim Plaintiff.**

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CAUSE NO. 09-CV-896-AWA

PRE-TRIAL ORDER

Before the Court is the above-entitled and styled cause of action. The Court issues the following pre-trial order:

IT IS ORDERED that the final pre-trial conference will take place at **10:00 a.m. on Thursday, June 2, 2011**, at the United States Courthouse, 200 West 8th Street, Austin, Texas 78701. **IT IS FURTHER ORDERED** that jury selection will begin at **9:00 a.m. on Monday June 6, 2011**, at the United States Courthouse, 200 West 8th Street, Austin, Texas 78701.

The parties are reminded to refer to Local Rule CV-16(e), as amended effective December 1, 2000, regarding the filing of pretrial materials.

The parties, however, are exempted from that portion of Local Rule CV-16(e) requiring that three days prior to trial they file “a list disclosing any objections, together with the grounds therefore, that may be made to the admissibility of any exhibits.” In lieu of that requirement, the Court **ORDERS** that, after receiving the final exhibit list called for by Local Rule CV-16(e)(4), the parties confer with each other to discuss, and resolve if possible, any objections they may have to each other’s exhibits. The Court further **ORDERS** that the parties be prepared to inform the Court at the pretrial conference of the exhibits to which there is no objection, and the exhibits to which objections remain for resolution by the Court. The Court

will determine at the pretrial conference whether to address at that time any evidentiary issues which may remain, or to reserve those matters for the trial.

In addition, the parties are exempted from Local Rule CV-16(e)(1), requiring the submission of questions for prospective jurors. The Court will conduct the preliminary, “generic” portion of the voir dire, but will permit each side a limited opportunity to ask their own questions.

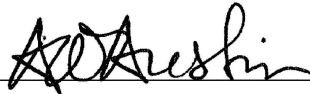
Further, notwithstanding the deadlines contained within Local Rule CV-16(e), the parties shall file by **May 31, 2011**, a list disclosing any objections to the use under Rule 32(a) of a deposition designated by the other party. and shall file any joint stipulation of facts at the **June 2, 2011**, pretrial conference.

For all other filing dates not expressly mentioned in this Order, the parties shall follow the requirements of Local Rule CV-16(e)

IT IS FINALLY ORDERED that the scheduling order in this matter is supplemented as follows:

1. Objections to the reliability of an expert’s proposed testimony under FED. R. EVID. 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony by **April 15, 2011**. Responses to the objections shall be filed by **April 29, 2011**, and replies to the responses shall be filed by **May 6, 2011**.

SIGNED this 14th day of April, 2011.

A handwritten signature in black ink, appearing to read "A. Austin", written over a horizontal line.

ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE